

MAY 27 2005

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

SECRETARIAT

2005 MAY 27 P 11 30

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR

5504

Date Complaint Filed

August 3, 2004

Date of Notification

August 10, 2004

Date Activated

February 23, 2005

Expiration of Statute
of Limitations

September, 30, 2008

COMPLAINANT:

Jonathan Weiss

RESPONDENTS:

Karoly Law Offices, P C

Jayann Brantley

Theodore Brantley

Eric Dalrus

Heather Kovacs

John Karoly, Jr

Joshua Karoly

Peter Karoly

Rebecca Karoly

Christina Ligotti

Matthew Ligotti

Gregory Pagliante

Maryellen Pagliante

**RELEVANT STATUTES
AND REGULATIONS:**

2 U S C § 441b

2 U S C § 441f

11 C F R § 110 4(b)(1)(u) and (u)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

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I. INTRODUCTION

In this matter, complainant alleges a corporate reimbursement scheme, wherein Karoly Law Offices, P C ("Karoly Law Offices") allegedly instructed employees and their spouses, and possibly others, to contribute to Gephardt for President ("Gephardt Committee"), Richard Gephardt's presidential campaign committee, and then reimbursed them for their contributions. As discussed in more detail below, this Office recommends reason to believe findings at this time against the Karoly Law Offices, John Karoly, Jr, the President and Treasurer of the law firm, and one employee, Heather Kovacs.

II. FACTUAL AND LEGAL ANALYSIS

A. Facts

According to complainant, a former employee of Karoly Law Offices, the Gephardt Committee faxed a notice to John Karoly, Jr ¹ in September 2003 regarding his pledge to raise an additional \$15,000 for the Gephardt Committee. Complainant alleges that it was his understanding that, on a day when the complainant was not in the office, John Karoly, Jr, the managing partner of Karoly Law Offices, "instructed" four employees, Gregory Paghanite, Jayann Brantley, Christina Ligotti and Heather Kovacs, to contribute to the Gephardt Committee, and reimbursed them and certain of their spouses for their contributions. Without saying how, complainant states "I am fully aware that the money was reimbursed from company funds by the Secretary, Jayann Brantley, who was instructed by Mr Karoly to reimburse the campaign money." Further, complainant alleges that John Karoly, Jr's two sons collected checks from the employees and from outside sources. Complainant states he witnessed the employees'

¹ The complaint refers to Attorney John Karoly and Attorney John Karoly, Jr. According to the law firm letterhead and other public information, the attorney practicing with Karoly Law Offices is named John Karoly, Jr. This Office believes that the complainant is using the names, John Karoly and John Karoly, Jr, interchangeably and referring to the same person throughout the complaint.

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1 reimbursement, and saw two checks from employees written to the Gephardt Committee,
2 including one from Heather Kovacs, Mr Karoly's secretary, whom he described as a Republican
3 and avid supporter of President George W Bush An "Addendum" attached as the last page of
4 the complaint states "This is to confirm that on June 25, 2004 at approximately 10 00 p m , I had
5 a conversation with Heather Kovacs during which she confirmed to me that she was in fact
6 reimbursed for the money which is referred to in this complaint "

7 As an attachment to the complaint, complainant provided a list of contributions The list
8 was apparently derived from public sources, but was annotated with his comments The list
9 shows contributions by Karoly Law Office employees, their spouses, a law firm client, and John
10 Karoly, Jr's family members to the Gephardt Committee in 2003 Those contributions total
11 \$23,000 All of the employee-related contributions were reported as received by the Gephardt
12 Committee on September 30, 2003 Mr Paglianite, Ms Brantley and Ms Kovacs each
13 contributed \$2,000 and Ms Ligotti contributed \$1,500 to the Gephardt Committee The spouses
14 of Mr Paglianite and Ms Brantley, Maryellen Paglianite and Theodore Brantley, contributed
15 \$2,000 each and Matthew Ligotti, spouse of Christina Ligotti, contributed \$1,500 In his
16 annotations, complainant states that Gregory Paglianite was a paralegal at Karoly Law Offices,
17 and that his and his wife's contributions were reimbursed by one check for \$4,000 His
18 annotations also state that Ms Ligotti is a medical paralegal at the law firm

19 Complainant's attachment also lists five \$2,000 contributions received by the Gephardt
20 Committee in April 2003, apparently derived from public disclosure records These include
21 contributions from Eric Dahus, allegedly a law firm client,² John Karoly, Jr , and John Karoly,

² In his complaint, complainant infers that contributions from Mr Dahus and other alleged named clients may have been reimbursed Of the alleged clients named, only Mr Dahus made a contribution to the Gephardt Committee, and he was the only alleged client who received notification of the complaint

Jr 's wife, son and brother, Rebecca Karoly, Joshua Karoly, and Peter Karoly, respectively
Complainant states in his attachment that he is not certain whether the April 2003 contributions
were also a "scheme "

John Karoly, Jr , on behalf of himself and representing all of the other individual
respondents except his brother, responded to the complaint The response, which Mr Karoly
characterized as a "preliminary filing,"³ includes identical affidavits from himself and all of the
individual respondents except Peter Karoly Each is sworn and notarized by respondent Heather
Kovacs, except her own, which is not notarized

Karoly Law Offices, which is also a respondent, did not separately
respond to the complaint or file a designation of counsel

John Karoly, Jr 's brother, Peter Karoly, an attorney who has his own law firm, Peter J
Karoly & Associates, responded separately to the complaint In his response, Peter Karoly stated
that his brother asked him to contribute to the Gephardt campaign and he gave his brother a
check for \$4,000, a contribution of \$2,000 for him and a \$2,000 contribution for his wife, Lauren
Angstadt, both drawn on their joint personal checking account Peter Karoly did not address
whether he was reimbursed for his contribution

B. Analysis

This Office considers it a close call whether to recommend that the Commission close the
file or find reason to believe and permit us to investigate The complaint alleges a corporate
reimbursement scheme that, if shown to exist, might constitute knowing and willful violations of

³ In his response, Mr Karoly asks for a ten-day extension in which to respond to the complaint The extension was granted, but no supplement to the original response was forthcoming A voicemail and letter to Mr Karoly asking if he had, or intended to file additional materials, received no response

2 U S C §§ 441b(a) and 441f by Karoly Law Offices, John Karoly, Jr and others⁴ Some of the allegations in the complaint are detailed and are apparently based on complainant's personal knowledge For example, complainant states that he "witness[ed] the office employees' reimbursement " Further, he states on his annotated list of contributions that the contributions of Gregory and Maryellen Pagliante were reimbursed by a single \$4,000 check Finally, and most significantly, in his "Addendum" he states that in a conversation on June 25, 2004, Heather Kovacs confirmed to him that she had been reimbursed⁵

On the other hand, parts of the complaint consist of speculative inferences, personal innuendo or unsupported statements of fact For example, while admittedly absent on the pivotal day, complainant states that he "understand[s] from others" that they were told to write checks to the Gephardt Committee that would be reimbursed from law firm funds He does not, however, identify the individuals from whom he gained this understanding Additionally, in the main body of the complaint -- apparently written, as noted, some months before the "Addendum" -- he supports his allegation that Ms Kovacs' contribution was reimbursed only by stating that she is a Republican and a supporter of President George W Bush, from this he deduces that she "wrote the check simply based on her dependence on her work and relationship with Mr Karoly " Finally, he admits not knowing if any law firm clients were reimbursed or whether the contributions made in April by the Karoly family members were reimbursed

⁴ The knowing and willful standard requires knowledge that one is violating the law See *Federal Election Commission v John A. Dramen for Congress Committee*, 640 F Supp 985, 987 (D N J 1986) A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false " *United States v Hopkins*, 916 F 2d 207, 214 (5th Cir 1990) An inference of a knowing and willful act may be drawn "from the defendant's elaborate schemes for disguising" his or her actions *Id* at 214-15

⁵ The complaint was filed with the Commission on August 3, 2004 According to the complainant's handwritten notation on the first page of the complaint, it appears that the complaint was dated November 17, 2003 and updated on June 25, 2004 It appears that page 7 of the complaint, which is entitled "Addendum," was the updated material

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1 The responses to the complaint are not wholly dispositive, either. As noted,
2 respondent John Karoly, Jr., as counsel, submitted identical one-sentence affidavits for himself,
3 his wife and son, the law firm's employees and their spouses, and client Eric Darius denying
4 their contributions had been reimbursed, each affidavit, except for her own, is notarized by
5 respondent Heather Kovacs. The affidavits contain no details concerning the circumstances
6 under which the contributions were made or transmitted. The FEC disclosure base shows that
7 none of the law firm employees or their spouses had ever made a contribution to a federal
8 candidate before their September 2003 contributions. While it might be said that the affidavits
9 address the central allegation that the contributions were reimbursed, their terseness leaves room
10 for other possibilities, such as that the funds were advanced, rather than reimbursed. Moreover,
11 despite the specific allegation that Heather Kovacs personally confirmed to complainant in a
12 conversation at 10:00 p.m. on June 25, 2004 that her contribution had been reimbursed, Ms
13 Kovacs' statement does not address this alleged conversation.⁶

14 This Office is sensitive to the Commission's concerns about relying on conclusory
15 allegations and making negative inferences from the mere fact that employees of the same
16 corporation have made contributions on the same day. See Statement of Reasons of
17 Commissioners Wold, Mason and Thomas dated July 20, 2000 in MUR 4850 (Deloitte &
18 Touche, LLP, et al). Moreover, the Commission has traditionally given considerable weight to
19 respondents' affidavits denying violations. On the other hand, we are also sensitive to raising the
20 bar too high on the level of information complainants need to proffer as a basis to investigate

⁶ The "Addendum" in which this allegation is made is the last page of the complaint package. It follows several pages of attachments and would be easy to miss. Accordingly, when we sent a letter to John Karoly, Jr. asking whether a supplemental response had been sent or was forthcoming, we specifically called his attention to this page. As noted, no response was received. See footnote 3, *supra*.

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1 In our opinion, the proper balance in this matter is to recommend that the Commission
2 make reason to believe findings at this time against only Heather Kovacs, Karoly Law Offices
3 and John Karoly, Jr, its President and Treasurer ⁷ Ms Kovacs' statement was not sworn or
4 notarized and does not address, let alone deny, the specific allegation that she admitted to
5 complainant that she was reimbursed. It appears that either the complainant's allegation
6 concerning their conversation is incorrect or untruthful, or Ms Kovacs' statement that she was
7 not reimbursed is untruthful. An investigation to probe this dichotomy would enable this Office
8 to then make recommendations concerning the appropriate disposition of the other alleged
9 conducts. If complainant's allegations regarding Ms Kovacs' contribution do not bear up when
10 investigated, his other allegations can be regarded as less than credible. On the other hand, if
11 Ms Kovacs turns out to have been reimbursed, that would tip the balance in favor of
12 investigating the other allegedly reimbursed contributions. Therefore, this Office recommends
13 that the Commission find reason to believe that Heather Kovacs violated 2 U S C § 441f by
14 knowingly permitting her name to be used to effect a contribution made by Karoly Law Offices.

15 There is no separate response by the respondent law firm denying any of the allegations
16 nor did the law firm designate counsel to represent it, and Mr Karoly does not purport
17 specifically to be representing the firm. According to the Pennsylvania Secretary of State's
18 office, Karoly Law Offices, based in Allentown, Pennsylvania, was incorporated in Pennsylvania
19 in 1986, so that any contributions it funded would be prohibited pursuant to 2 U S C § 441b(a).
20 Section 441b(a) also prohibits officers of corporations from consenting to corporate
21 contributions. State corporate records indicate that John Karoly, Jr is the President and
22 Treasurer of Karoly Law Offices. Additionally, the Commission's regulations provide that "[n]o

⁷ At this time, we are not making a recommendation concerning Mr Karoly's alleged conduct contribution.
See discussion, *supra*.

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1 person shall knowingly assist any person in making a contribution in the name of another "

2 11 C F R § 110 4(b)(u) If in fact there were any reimbursements in this matter, the

3 complamant's allegations indicate they came from the law firm and that John Karoly, Jr , an

4 officer of the law firm, may have knowingly and willfully devised and furthered an alleged

5 conduit scheme and consented to corporate reimbursement of Heather Kovacs' and possibly

6 others' contributions See footnote 4, *supra* In his affidavit, Mr Karoly did not specifically

7 address the allegation that he instructed certain individuals to contribute to the Gephardt

8 Committee and then instructed that their contributions be reimbursed by the law firm Therefore,

9 this Office recommends that the Commission find there is reason to believe that Karoly Law

10 Offices, P C and John Karoly, Jr , its President and Treasurer, knowingly and willfully violated

11 2 U S C § 441b(a) and 2 U S C § 441f

12 At this time, this Office believes that there is an insufficient basis on which to make

13 recommendations regarding the alleged conduit contributions by the other respondents in this

14 matter If the Commission approves our reason to believe recommendations, this Office initially

15 intends to conduct a limited and targeted investigation as discussed below Depending on the

16 results of that investigation, we will return to the Commission shortly with appropriate

17 recommendations concerning the other respondents in this matter⁸ Accordingly, at this time,

18 this Office makes no recommendations regarding Eric Darius, Jayann Brantley, Theodore

19 Brantley, Christina Ligotti, Matthew Ligotti, Gregory Pagiamite, Maryellen Pagiamite, Rebecca

20 Karoly, Joshua Karoly, Peter Karoly, and John Karoly, Jr , in his capacity as an alleged conduit

21 contributor

⁸ The complaint makes no allegation that the Gephardt Committee knew of or participated in any conduit or facilitation scheme, and there does not appear to be any other basis for generating findings against the Committee at this time

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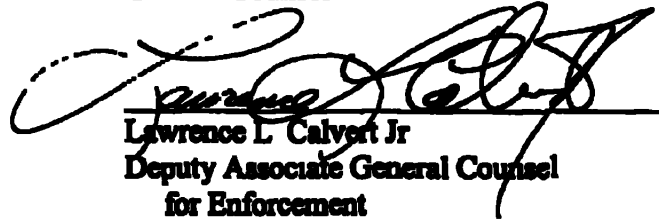
IV. RECOMMENDATIONS

- 1 Find reason to believe that Karoly Law Offices, P C knowingly and willfully violated 2 U S C § 441b(a) and 2 U S C § 441f,**
- 2 Find reason to believe that John Karoly, Jr knowingly and willfully violated 2 U S C § 441b(a) and 2 U S C § 441f**
- 3 Find reason to believe that Heather Kovacs violated 2 U S C § 441f,**
- 4 Approve the attached Factual and Legal Analyses,**

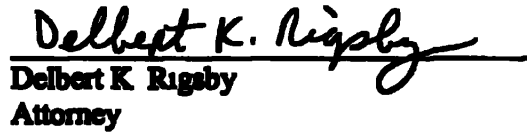
6 Approve the appropriate letters

5/27/05
Date

Lawrence H Norton
General Counsel


Lawrence L. Calvert Jr
Deputy Associate General Counsel
for Enforcement


Susan L. Lebeaux
Assistant General Counsel


Delbert K. Rigsby
Attorney

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